

APPEAL

**U.S. Bankruptcy Court
Western District of Virginia (Lynchburg)
Adversary Proceeding #: 06-06081
Internal Use Only**

Assigned to: Judge William E Anderson

Date Filed: 08/28/06

Related BK Case: 05-61589

Related BK Title: Boss Management Group, Inc. a Virginia Corporation

Related BK Chapter: 7

Demand:

Nature[s] of Suit: 435 Validity/Priority/Extent Lien
498 Other Action

Plaintiff

William F Schneider, Trustee, Plaintiff

BELL & SCHNEIDER
PO BOX 739
LYNCHBURG, VA 24505
434-528-0411

represented by **William F. Schneider, Esq**
P. O. Box 739
Lynchburg, VA 24505-0739
(434) 528-0411
Email: schneider@abellaw.com
LEAD ATTORNEY

V.

Defendant

**Fabriko Acquisition Corporation,
Defendant**

represented by **Gary M Bowman**
306 MARKET STREET
ROANOKE, VA 24011
540 343-7949
Email: garymbowman3@cox.net

Gary M Bowman
306 Market Street
Roanoke, VA 24011
(540) 343-7949
Fax : (540) 344-6144
Email: garymbowman3@cox.net
LEAD ATTORNEY

Mid-West Textiles, Inc.

represented by **Gary M Bowman**
(See above for address)
LEAD ATTORNEY

3rd Party Plaintiff

Fabriko Acquisition Corporation,
Defendant

represented by **Gary M Bowman**
 (See above for address)
LEAD ATTORNEY

V.

3rd Pty Defendant

Advisco Capital Corporation

represented by **R Mitchell Garbee**
 Wilson Garbee & Rosenberger
 PO Box 778
 Lynchburg, VA 24505
 434 847-9066
 Email: mgarbee@wgrlaw.net

Philip A Newman

represented by **R Mitchell Garbee**
 (See above for address)

Filing Date	#	Docket Text
08/28/2006	<u>1</u>	Adversary case 06-06081. Complaint by William F Schneider, Trustee against Fabriko Acquisition Corporation, Mid-West Textiles, Inc.. Receipt Number defer, Fee Amount \$250. (435 (Validity/Priority/Extent Lien),498 (Other Action)) (Schneider, William) (Entered: 08/28/2006)
08/28/2006	<u>2</u>	Cover Sheet Filed William F Schneider, Trustee (Schneider, William) (Entered: 08/28/2006)
08/28/2006	<u>3</u>	Application to Defer Fee Other Than Case Filing Fee (related documents 1 Complaint,) /Defer Payment of Adversary Filing Fee Filed by Plaintiff William F Schneider, Trustee (Schneider, William) (Entered: 08/28/2006)
08/29/2006	<u>4</u>	Order Granting Application to Defer Payment Other Than Case Filing Fee; Trustee to certify;(Related Doc # 3) Signed on 8/29/2006. (Campbell, Pam) (Entered: 08/29/2006)
08/29/2006		Attorney William F. Schneider for William F Schneider, Trustee, Gary M Bowman for Fabriko Acquisition Corporation and Mid-West Textiles, Inc. added to case (Campbell, Pam) (Entered: 08/30/2006)
08/29/2006	<u>5</u>	Summons Issued to Attorney for Plaintiff; Pre-Trial Conference set for 10/5/2006 at 09:30 AM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Campbell, Pam) (Entered: 08/30/2006)

09/20/2006	<u>6</u>	Certificate of Service Filed by William F. Schneider Esq on behalf of William F Schneider, Trustee (RE: related document(s)5 Summons Issued to Attorney for Plaintiff, 1 Complaint,). (Schneider, William) (Entered: 09/20/2006)
09/26/2006	<u>7</u>	Answer to Complaint <i>on behalf of Fabriko Acquisition Corporation and Mid-West Textiles, Inc.</i> Filed by Fabriko Acquisition Corporation. (Bowman, Gary) (Entered: 09/26/2006)
09/26/2006	<u>8</u>	Objection to Pre-Trial Conference Scheduled for October 5, 2006 filed by Fabriko Acquisition Corporatoin and Mid-West Textiles, Inc. Filed by Gary M Bowman on behalf of Fabriko Acquisition Corporation. (Bowman, Gary) (Entered: 09/26/2006)
09/26/2006	<u>9</u>	Third-Party Complaint by Fabriko Acquisition Corporation against Advisco Capital Corporation, Philip A Newman . (Bowman, Gary) (Entered: 09/26/2006)
09/28/2006		Attorney Gary M Bowman for Fabriko Acquisition Corporation added to case (Campbell, Pam) (Entered: 09/28/2006)
09/28/2006	<u>10</u>	Third Party Summons Issued to Attorney for Third Party Plaintiff; Counsel for Third Party Plaintiff to certify; (Original summons mailed by regular mail to counsel for Third Party Plaintiff) (Campbell, Pam) Modified on 9/28/2006 (Campbell, Pam). (Entered: 09/28/2006)
10/05/2006	<u>11</u>	Pre-Trial Hearing Held - Hearing Continued (RE: related document(s) 1 Complaint, filed by Plaintiff William F Schneider, Trustee) Hearing scheduled 11/9/2006 at 09:30 AM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Campbell, Pam) (Entered: 10/05/2006)
10/26/2006	<u>12</u>	Answer to Third Party Complaint Filed by Advisco Capital Corporation, Philip A Newman. (Garbee, R) (Entered: 10/26/2006)
10/31/2006	<u>13</u>	Certificate of Service <i>For Third Party Summons</i> Filed by Gary M Bowman on behalf of Fabriko Acquisition Corporation. (Bowman, Gary) (Entered: 10/31/2006)
11/03/2006	<u>14</u>	Interrogatories <i>Third Party Defendant Advisco Capital Corporation's First Set of Interrogatories to Fabriko Acquisition Corporation, Defendant and Third-Party Plaintiff</i> Filed by R Mitchell Garbee on behalf of Advisco Capital Corporation (RE: related document(s)9 Third-Party Complaint). (Garbee, R) (Entered: 11/03/2006)
11/03/2006	<u>15</u>	Interrogatories - <i>Request for Production</i> Filed by R Mitchell Garbee

		on behalf of Advisco Capital Corporation (RE: related document(s)9 Third-Party Complaint). (Garbee, R) (Entered: 11/03/2006)
11/09/2006	●16	Pre-Trial Conference Held (RE: related document(s)1 Complaint, filed by Plaintiff William F Schneider, Trustee) Pre-Trial hearing continued to 12/14/06 at 9:30am in the U. S. Bankruptcy Court, 1101 Court Street, Lynchburg, VA; (Parties may conduct pre-trial by conference call on 11/16/06 at 10:30 am to be initiated by Mr. Bowman) (Campbell, Pam) (Entered: 11/13/2006)
11/16/2006	●17	Pre-Trial Conference Held by telephone on 11/16/06 (Court notes returned to clerk's office on 12/8/06; Trial to be held on 6/7/07 at 10:30 am; Discovery cutoff will be 2/28/07; Pre-trial motions by 4/1/07; Pre-trial motions to be heard on 4/19/07 at 10:00 am; (RE: related document(s)1 Complaint, filed by Plaintiff William F Schneider, Trustee) (Campbell, Pam) (Entered: 12/08/2006)
11/16/2006	●18	Pre-Trial Conference Held by Telephone (hearing re-docketed due to courtroom deputy making additions to court notes) (RE: related document(s)1 Complaint, filed by Plaintiff William F Schneider, Trustee) (Campbell, Pam) (Entered: 12/08/2006)
12/11/2006	●19	Scheduling Order (Trial and/or Pre-Trial) Signed on 12/11/2006. Discovery due by 2/28/2007; Pre-trial motions to be filed by 4/1/07; Hearing date for pre-trial motions will be 4/19/07 at 10:00 am; Trial date set for 6/7/2007 at 10:30 AM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504; (Campbell, Pam) Modified on 12/11/2006 (Campbell, Pam). (Entered: 12/11/2006)
01/19/2007	●20	Letter Filed by Gary M Bowman on behalf of Fabriko Acquisition Corporation. (Bowman, Gary) (Entered: 01/19/2007)
02/15/2007	●21	Letter Filed by Gary M Bowman on behalf of Fabriko Acquisition Corporation. (Bowman, Gary) (Entered: 02/15/2007)
02/26/2007	●22	Motion to Dismiss Adversary Proceeding - <i>Third-Party Defendants' Motion to Dismiss RICO Claim for Failure to State a Claim</i> Filed by Advisco Capital Corporation, Philip A Newman Hearing scheduled 3/8/2007 at 10:00 AM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Garbee, R) (Entered: 02/26/2007)
03/01/2007	●23	Amended Complaint <i>Motion to Amend Third Party Complaint</i> by Gary M Bowman on behalf of Fabriko Acquisition Corporation against Advisco Capital Corporation. (Bowman, Gary) (Entered: 03/01/2007)

03/01/2007	● <u>24</u>	Amended Complaint by Gary M Bowman on behalf of Fabriko Acquisition Corporation against Advisco Capital Corporation. (Bowman, Gary) (Entered: 03/01/2007)
03/01/2007	● <u>25</u>	Amended Complaint <i>Notice of Hearing</i> by Gary M Bowman on behalf of Fabriko Acquisition Corporation against Advisco Capital Corporation. (Bowman, Gary) (Entered: 03/01/2007)
03/01/2007	● <u>26</u>	Response <i>OF FABRIKO ACQUISITION CORPORATION TO THIRD-PARTY DEFENDANTS' MOTION TO DISMISS COUNT TWO (RICO CLAIM)</i> Filed by Gary M Bowman on behalf of Fabriko Acquisition Corporation. Hearing scheduled 3/8/2007 at 10:00 AM at cr mtg, Lynchburg, US Courthouse, Rm 266, 1101 Court St., Lynchburg, VA 24504. (Bowman, Gary) (Entered: 03/01/2007)
03/04/2007	● <u>27</u>	Motion to Compel <i>Philip Newman and Advisco Capital Corporation to Respond to Discovery, Motion to Schedule Depositions, and Motion to Extend Discovery Cut-off</i> Filed by 3rd Party Plaintiff Fabriko Acquisition Corporation Hearing scheduled 3/8/2007 at 10:00 AM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Bowman, Gary) (Entered: 03/04/2007)
03/06/2007	● <u>28</u>	Memorandum <i>in Opposition to Motion to Amend Third-Party Complaint</i> Filed by R Mitchell Garbee on behalf of Advisco Capital Corporation, Philip A Newman (RE: related document(s) <u>23</u> Amended Complaint). (Garbee, R) (Entered: 03/06/2007)
03/07/2007	● <u>29</u>	Memorandum <i>in Opposition to Motion to Compel</i> Filed by R Mitchell Garbee on behalf of Advisco Capital Corporation, Philip A Newman (RE: related document(s) <u>27</u> Motion to Compel <i>Philip Newman and Advisco Capital Corporation to Respond to Discovery, Motion to Schedule Depositions, and Motion to Extend Discovery Cut-off</i>). (Garbee, R) (Entered: 03/07/2007)
03/07/2007	● <u>30</u>	Response (<i>Fabriko Acquisition Corporation's Reply to Advisco Capital Corporation's and Philip A. Newman's Memorandum in Opposition to Motion to Amend Third-Party Complaint</i>) Filed by Gary M Bowman on behalf of Fabriko Acquisition Corporation. (Bowman, Gary) (Entered: 03/07/2007)
03/08/2007	● <u>31</u>	Hearing Held - Hearing Continued (RE: related document(s) <u>27</u> Motion to Compel, filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant Fabriko Acquisition Corporation) Hearing scheduled 6/28/2007 at 01:30 PM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Campbell, Pam) (Entered: 03/08/2007)

03/08/2007	● <u>32</u>	Hearing Held - Hearing Continued (RE: related document(s) <u>22</u> Motion to Dismiss Adversary Proceeding, filed by 3rd Pty Defendant Philip A Newman, 3rd Pty Defendant Advisco Capital Corporation) Hearing scheduled 6/28/2007 at 01:30 PM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Campbell, Pam) (Entered: 03/08/2007)
03/08/2007	● <u>33</u>	Hearing Held - Hearing Continued (RE: related document(s) <u>23</u> Amended Complaint filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant Fabriko Acquisition Corporation) Hearing scheduled 6/28/2007 at 01:30 PM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Campbell, Pam) (Entered: 03/08/2007)
03/08/2007	● <u>34</u>	Hearing Held (RE: related document(s) <u>24</u> Amended Complaint filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant Fabriko Acquisition Corporation) - Request for jury trial; Denied, Court to do order on denial of jury trial; (Campbell, Pam) (Entered: 03/08/2007)
03/15/2007	● <u>35</u>	Letter Filed by R Mitchell Garbee on behalf of Advisco Capital Corporation, Philip A Newman. (Garbee, R) (Entered: 03/15/2007)
04/04/2007	● <u>36</u>	Motion for Jury Trial Filed by Defendant Fabriko Acquisition Corporation (Bowman, Gary) (Entered: 04/04/2007)
04/18/2007	● <u>37</u>	Motion To Strike (related documents <u>36</u> Motion for Jury Trial) - Filed by Advisco Capital Corporation, Philip A Newman (Garbee, R) Modified on 4/18/2007 (Farmer, Deborah). (Entered: 04/18/2007)
04/27/2007	● <u>38</u>	Motion for Withdrawal of Reference Filed by Defendant Fabriko Acquisition Corporation (Bowman, Gary) (Entered: 04/27/2007)
04/30/2007	● <u>39</u>	Order of Deficiency Adversary Proceeding - Fee for filing Motion for withdrawal of Reference in the amount of \$150.00 not paid; Signed on 4/30/2007. Filing Fee Not Paid Due By 5/10/2007. (Campbell, Pam) (Entered: 04/30/2007)
05/03/2007	● <u>40</u>	Order and Memorandum Decision dismissing (RE: related document (s) <u>23</u> Amended Complaint; <u>26</u> Response, filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant; <u>9</u> Third-Party Complaint; <u>27</u> Motion to Compel, filed by 3rd Party Plaintiff <u>36</u> Motion for Jury Trial filed by 3rd Party Plaintiff. Signed on 05/03/07 (Farmer, Deborah) (Entered: 05/03/2007)
05/03/2007	● <u>41</u>	Order Dismissing Signed on 5/3/2007 (RE: related document(s) <u>23</u> Motion to Amend Complaint filed by 3rd Party Plaintiff Fabriko

		Acquisition Corporation, Defendant Fabriko Acquisition Corporation). (Farmer, Deborah) (Entered: 05/03/2007)
05/03/2007	●42	Order dismissing Signed on 5/3/2007 (RE: related document(s)27 Motion to Compel, filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant Fabriko Acquisition Corporation). (Farmer, Deborah) (Entered: 05/03/2007)
05/03/2007	●43	Order dismissing Signed on 5/3/2007 (RE: related document(s)9 Third-Party Complaint filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant Fabriko Acquisition Corporation). (Farmer, Deborah) (Entered: 05/03/2007)
05/03/2007	●44	Order dismissing Signed on 5/3/2007 (RE: related document(s)36 Motion for Jury Trial filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant Fabriko Acquisition Corporation). (Farmer, Deborah) (Entered: 05/03/2007)
05/03/2007	●45	Order dismissing Signed on 5/3/2007 (RE: related document(s)12 Answer to Third Party Complaint filed by 3rd Pty Defendant Philip A Newman, 3rd Pty Defendant Advisco Capital Corporation). (Farmer, Deborah) (Entered: 05/03/2007)
05/05/2007	●46	BNC Certificate of Mailing - PDF Document. (RE: related document (s)40 Order and Decision,) No. of Notices: 1. Service Date 05/05/2007. (Admin.) (Entered: 05/06/2007)
05/05/2007	●47	BNC Certificate of Mailing - PDF Document. (RE: related document (s)41 Order) No. of Notices: 1. Service Date 05/05/2007. (Admin.) (Entered: 05/06/2007)
05/05/2007	●48	BNC Certificate of Mailing - PDF Document. (RE: related document (s)42 Order) No. of Notices: 1. Service Date 05/05/2007. (Admin.) (Entered: 05/06/2007)
05/05/2007	●49	BNC Certificate of Mailing - PDF Document. (RE: related document (s)43 Order) No. of Notices: 1. Service Date 05/05/2007. (Admin.) (Entered: 05/06/2007)
05/05/2007	●50	BNC Certificate of Mailing - PDF Document. (RE: related document (s)44 Order) No. of Notices: 1. Service Date 05/05/2007. (Admin.) (Entered: 05/06/2007)
05/05/2007	●51	BNC Certificate of Mailing - PDF Document. (RE: related document (s)45 Order) No. of Notices: 1. Service Date 05/05/2007. (Admin.) (Entered: 05/06/2007)

05/08/2007	52	Amended Motion for Withdrawal of Reference Filed by Defendant Fabriko Acquisition Corporation (Bowman, Gary) (Entered: 05/08/2007)
05/08/2007	53	Motion for Leave to Appeal Filed by Defendant Fabriko Acquisition Corporation Hearing scheduled 7/12/2007 at 09:30 AM at cr mtg, Lynchburg, US Courthouse, Rm 266, 1101 Court St., Lynchburg, VA 24504. (Attachments: # 1 Supplement Notice of Appeal) (Bowman, Gary) (Entered: 05/08/2007)
05/08/2007	54	Notice OF APPEAL. Filed by Defendant Fabriko Acquisition Corporation. Wrong document event was used by counsel when entering pleading, counsel notified by email to re-docket using correct entry; (Bowman, Gary) Modified on 5/11/2007 (Campbell, Pam). (Entered: 05/08/2007)
05/15/2007	55	Order, (Notice, not order) of Deficiency Adversary Proceeding (Costs for filing interlocutory Appeal for Motion for Leave not paid in the amount of \$5.00) Fee Due by 5/25/07; Signed on 5/15/2007. (Campbell, Pam) Modified on 5/17/2007 (Campbell, Pam). (Entered: 05/15/2007)
05/17/2007	56	Notice of Deficiency for Appeal - APPELLEE WAS NOT LISTED; Due by 5/29/07; (Campbell, Pam) (Entered: 05/17/2007)
05/21/2007	57	Notice of Appeal to DistrictCourt . Fee Amount \$255 Filed by Defendant Fabriko Acquisition Corporation. Appellant Designation due by 5/31/2007. (Bowman, Gary) (Entered: 05/21/2007)
05/22/2007	58	Motion to Extend TIME FOR PAYMENT OF APPEAL FEE Filed by Defendant Fabriko Acquisition Corporation Hearing scheduled 7/12/2007 at 09:30 AM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Bowman, Gary) (Entered: 05/22/2007)
05/22/2007	59	Motions terminated. (fee not paid) (RE: related document(s)38 Motion for Withdrawal of Reference filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant Fabriko Acquisition Corporation) (Campbell, Pam) (Entered: 05/22/2007)
05/31/2007	59	Order Scheduling Status Hearing and cancelling Trial scheduled for June 7, 2007; Trial will be re-scheduled at the status hearing; Signed on 5/31/2007 (RE: related document(s)19 Scheduling Order,). Hearing scheduled 7/12/2007 at 01:30 PM at Lynchburg, US Bankruptcy Courtroom 210, U.S. Courthouse, 1101 Court St., Lynchburg, VA 24504. (Campbell, Pam) (Entered: 05/31/2007)

06/02/2007	<u>60</u>	BNC Certificate of Mailing - PDF Document. (RE: related document (s)59 Order Schedule Hearing,) No. of Notices: 2. Service Date 06/02/2007. (Admin.) (Entered: 06/03/2007)
06/07/2007	<u>61</u>	Order that the Clerk shall remove the hearing on Motion for Leave to Take Interlocutory Appeal from the calendar; and that the Clerk shall immediately transmit the Notice of Appeal and the Motion for Leave to Appeal to the Clerk of the U. S. District Court for this District along with copies of the orders complained of and of any opinions or memoranda relating thereto and any answers that may have been filed Signed on 6/7/2007 (RE: related document(s)53 Motion for Leave to Appeal, filed by 3rd Party Plaintiff Fabriko Acquisition Corporation, Defendant Fabriko Acquisition Corporation). (Fallen, Janet) (Entered: 06/07/2007)